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Attorneys for the United States

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
OAKLAND DIVISION

UNITED STATES OF AMERICA,	)	No. 4-12-71274-MAG
	)	
Plaintiff,	)	<del>PROPOSED</del> ORDER AND
	)	STIPULATION FOR CONTINUANCE
v.	)	FROM DECEMBER 14, 2012 TO
	)	JANUARY 11, 2013 AND EXCLUDING
MARIN MENDOZA and	)	TIME FROM THE SPEEDY TRIAL ACT
JESUS PACHECO,	)	CALCULATION (18 U.S.C. §
	)	3161(h)(8)(A)) AND WAIVING TIME
Defendants.	)	LIMITS UNDER RULE 5.1
	)	

With the agreement of the parties, and with the consent of the defendants, the Court enters this order scheduling an arraignment or preliminary hearing date of January 11, 2013 at 9:30 a.m. before the duty magistrate judge, and documenting the defendants' waiver of the preliminary hearing date under Federal Rule of Criminal Procedure 5.1 and the exclusion of time under the Speedy Trial Act, 18 U.S.C. § 3161(b), from December 14, 2012 to January 11, 2013.

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1 The parties agree, and the Court finds and holds, as follows:

2 1. The defendants are both in custody pending detention hearings before the Court.

3 2. The defendants agree to an exclusion of time under the Speedy Trial Act, 18  
4 U.S.C. § 3161(h)(8)(B)(iv) to provide reasonable time necessary for effective preparation, taking  
5 into account the exercise of due diligence. The government is producing discovery in the case  
6 and defense counsel needs time to review the discovery.

7 2. The defendants waive the time limits of Federal Rule of Criminal Procedure 5.1 for  
8 preliminary hearing.

9 4. Counsel for the defense believes that postponing the preliminary hearing is in their  
10 clients' best interest, and that it is not in their clients' interest for the United States to indict the  
11 case during the normal 14-day timeline established in Rule 5.1.

12 5. The Court finds that, taking into the account the public interest in the prompt  
13 disposition of criminal cases, these grounds are good cause for extending the time limits for a  
14 preliminary hearing under Federal Rule of Criminal Procedure 5.1. Given these circumstances,  
15 the Court finds that the ends of justice served by excluding the period from December 14, 2012  
16 to January 11, 2013, outweigh the best interest of the public and the defendants in a speedy trial.  
17 18 U.S.C. § 3161(h)(8)(A).

18 6. Accordingly, and with the consent of the defendants, the Court (1) sets a preliminary  
19 hearing date before the duty magistrate judge on January 11, 2013, at 9:30 a.m., and (2) orders  
20 that the period from December 14, 2012 to January 11, 2013, be excluded from the time period

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1 for preliminary hearings under Federal Rule of Criminal Procedure 5.1 and from Speedy Trial  
2 Act calculations under 18 U.S.C. § 3161(h)(8)(A) & (B)(iv).

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4 IT IS SO STIPULATED:

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6 DATED: December 4, 2012

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/s/  
NED SMOCK  
Attorney for Defendant Marin Mendoza

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9 DATED: December 4, 2012

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/s/  
ERIC BABCOCK  
Attorney for Defendant Jesus Pacheco

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11  
12 DATED: December 4, 2012

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/s/  
AARON D. WEGNER  
Assistant United States Attorney

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15  
16 IT IS SO ORDERED.

17 DATED: 12/12/12

  
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HON. KANDIS A. WESTMORE  
United States Magistrate Judge